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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Afghanistan, Andorra,* Argentina,* Armenia,* Australia, Belgium, Bosnia and Herzegovina,* Bolivia (Plurinational State of),* Bulgaria,* Chile, Croatia, Cyprus,* Ethiopia, Finland,* France,* Georgia, Germany, Greece,* Honduras,* Iraq, Ireland,* Italy,* Lebanon,* Luxembourg,* Mali,* Malta,* Mexico, Monaco,* Montenegro,* New Zealand,* Norway,* Paraguay,* Peru, Poland,* Portugal,* Romania,* Serbia,* Slovakia, Slovenia, Sweden,* Switzerland, Ukraine, United States of America: draft resolution

37/... Cultural rights and the protection of cultural heritage

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, the Declaration on the Right to Development and all relevant international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and reaffirming the human rights and fundamental freedoms enshrined therein,

Recalling also General Assembly resolution 60/251 of 15 March 2006, by which the Assembly established the Human Rights Council and in which it stated that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and must be treated in a fair and equal manner, on the same footing and with the same emphasis,

Recalling further Human Rights Council resolution 33/20 of 30 September 2016,

Convinced that damage to cultural heritage, both tangible and intangible, of any people constitutes damage to the cultural heritage of humanity as a whole,

Recognizing that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of cultural heritage belongs primarily to the State on whose territory it is situated,

Noting that the destruction of or damage to cultural heritage may have a detrimental and irreversible impact on the enjoyment of cultural rights, in particular the right of

* State not a member of the Human Rights Council.

everyone to take part in cultural life, including the ability to access and enjoy cultural heritage,

Reaffirming that safeguarding the enjoyment of cultural rights may form a crucial part of the response to many current global challenges, including to the scourge of terrorism,

Reaffirming also that addressing the destruction of tangible and intangible cultural heritage needs to be holistic, encompassing all regions, contemplating both prevention and accountability, focusing on acts by State and non-State actors in both conflict and non-conflict situations, and terrorist acts,

Recognizing that the violation or abuse of the right of everyone to take part in cultural life, including the ability to access and enjoy cultural heritage, may threaten stability, social cohesion and cultural identity, and constitutes an aggravating factor in conflict and a major obstacle to dialogue, peace and reconciliation,

Strongly condemning all acts of unlawful destruction of cultural heritage, which are often committed during or in the aftermath of armed conflicts around the world, or as a result of terrorist attacks,

Noting with deep concern the organized looting, smuggling and theft of and illicit trafficking in cultural property that could undermine the full enjoyment of cultural rights, and are contrary to international law and may, in some instances, generate funds for the financing of terrorism,

Acknowledging the importance of early restoration of the full enjoyment of cultural rights to individuals affected by conflict, and in particular to those who are displaced,

Emphasizing the important role that the Human Rights Council can play, in concert with all other relevant international actors, in global efforts to protect, restore and preserve cultural heritage, with a view to promoting universal respect for cultural rights by all,

Recognizing the important contribution that United Nations peacekeeping missions can make in the protection of cultural heritage and the safeguarding of the enjoyment of cultural rights, both during and in the aftermath of armed conflicts,

Acknowledging the important role of the United Nations Educational, Scientific and Cultural Organization, the United Nations Office on Drugs and Crime, the International Criminal Police Organization and the World Customs Organization in international efforts to combat and prevent damage or destruction, organized looting, smuggling and theft of and illicit trafficking in cultural property, and to restore damaged property,

Welcoming all initiatives, whether by States, institutions or private persons, for the voluntary return of cultural property, and in particular those concerning cultural property that has been illicitly appropriated,

Recognizing that technology, and in particular the Internet, may enhance cultural creation and dissemination by enabling new forms of curating and sharing, and engagement with, cultural heritage,

Taking note with appreciation of the report of the United Nations High Commissioner for Human Rights on the intersessional seminar on cultural rights and the protection of cultural heritage,[1] and noting the areas identified therein as needing more attention, such as the protection of the cultural heritage of minority communities from intentional destruction aimed at erasing evidence of their presence and the engagement of indigenous peoples and local communities in international debates on cultural heritage protection,

Reaffirming the importance of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms and its implementation, and in the context of its

[1] A/HRC/37/29.

twentieth anniversary, highlighting in particular the important contribution made by cultural rights defenders involved in the protection of the cultural heritage of all humankind,

1. *Calls upon* all States to respect, promote and protect the right of everyone to take part in cultural life, including the ability to access and enjoy cultural heritage;

2. *Urges* all parties to armed conflicts to refrain from any unlawful military use or targeting of cultural property, in full conformity with their obligations under international humanitarian law;

3. *Encourages* States that have not yet become a party to all relevant treaties that provide for the protection of cultural property to consider doing so;

4. *Calls* for enhanced international cooperation in preventing and combating the organized looting, smuggling and theft of and illicit trafficking in cultural objects and in restoring stolen, looted or trafficked cultural property to its countries of origin, and invites States to take measures in this regard at the national level to make effective use to this end of relevant tools and databases developed under the auspices of the United Nations Educational, Scientific and Cultural Organization, the United Nations Office on Drugs and Crime, the International Criminal Police Organization and the World Customs Organization, within the scope of their respective mandates;

5. *Encourages* the strengthening of dialogue and cooperation between relevant international organizations and States affected by the organized looting, theft and smuggling of and illicit trafficking in cultural property, including through the provision of support and technical assistance aimed at enhancing their national capacities to restore, protect and preserve cultural heritage and property;

6. *Calls for* the development of partnerships between competent national authorities and civil society, in particular grass-roots institutions, with the aim of creating a safe and enabling environment to enhance the protection of cultural rights and to promote the right of everyone to take part in cultural life, including the ability to access and enjoy cultural heritage;

7. *Also calls for* the identification of innovative ways and best practices, at the national, regional and international levels, for the prevention of violations and abuses of cultural rights, and for participatory and inclusive approaches to the prevention and mitigation of damage caused to cultural heritage, both tangible or intangible;

8. *Further calls for* the recognition of the protection of cultural heritage as an important component of humanitarian assistance, including in armed conflict and with regard also to displaced populations and for enhanced cooperation between the Office of the United Nations High Commissioner for Human Rights, the mandate of the Special Rapporteur in the field of cultural rights, the United Nations Educational, Scientific and Cultural Organization and other relevant agencies and stakeholders, with a view to mainstreaming the protection of cultural heritage into humanitarian actions, security strategies and peacebuilding processes, and in post-conflict reconciliation initiatives;

9. *Encourages* States to adopt a gender-sensitive and inclusive approach to the protection of cultural heritage and the safeguardi g of cultural rights that is respectful of cultural diversity and includes consideration of human rights issues of minority communities and indigenous peoples;

10. *Calls for* the safety and security of cultural rights defenders involved in the protection of cultural heritage to be protected, including by investigating and, where appropriate, bringing to justice anyone alleged to have harmed them;

11. *Invites* States to adopt effective strategies to prevent the destruction of cultural heritage by, inter alia, ensuring accountability documenting the cultural heritage within their jurisdiction, including through digital means, implementing educational programmes on the importance of cultural heritage and cultural rights and training military forces and humanitarian actors in all relevant rules concerning the protection of cultural heritage, both during and in the aftermath of armed conflict;

12. *Encourages* States to address limitations of cultural rights, to take the measures necessary to prevent the destruction of historic monuments, works of art or places of worship that constitute the cultural or spiritual heritage of peoples, both in conflict and non-conflict situations, and to promote respect for cultural diversity;

13. *Also encourages* States, and the international community, the United Nations and civil society to consider implementing the relevant recommendations contained in the report of the High Commissioner on the intersessional seminar on cultural rights and the protection of cultural heritage,[1] as well as those made by the Special Rapporteur in the field of cultural rights in her reports presented to the Human Rights Council[2] and to the General Assembly;[3]

14. *Requests* the High Commissioner:

(a) To convene, before the forty-fourth session of the Human Rights Council, and in collaboration with the Special Rapporteur in the field of cultural rights, relevant agencies and other stakeholders, a two-day workshop in Geneva with the participation of experts from all regions of the world to develop appropriate tools for the dissemination of an approach to the protection, restoration and preservation of cultural heritage that promotes universal respect for cultural rights by all;

(b) To submit to the Human Rights Council at its forty-sixth session a report thereon;

15. *Decides* to remain seized of the matter.

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[2] A/HRC/31/59 and Corr.1.

[3] A/71/317.